

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM NELSON,

Plaintiff,

v.

MARY MADDEN; KAYLA AYERS;
CLINT P JOHNSON; JUDGE SUSAN
ADAMS; PIERCE COUNTY; PIERCE
COUNTY SUPERIOR COURT,

Defendants.

Case No. 3:25-cv-05490-TMC

ORDER GRANTING TEMPORARY
RESTRAINING ORDER

I. INTRODUCTION

Pro se Plaintiff William Nelson has filed an ex parte emergency motion for a temporary restraining order (“TRO”) preventing the Defendants—Mary Madden, Clerk of Court, Pierce County Superior Court; Kayla Ayers, Disability Coordinator, Pierce County Superior Court; Clint P. Johnson, Commissioner, Pierce County Superior Court; Judge Susan Adams, Pierce County Superior Court; Pierce County Superior Court; and Pierce County—from holding a hearing scheduled for June 4, 2025 on a dispositive motion in state court civil proceedings. Dkt. 2 at 1, 2–3, 4. Mr. Nelson contends that the Defendants have denied him reasonable accommodations under the Americans with Disabilities Act (“ADA”) and that requiring him to go forward with the hearing will violate his rights under the ADA and the Due Process Clause of

1 the United States Constitution and cause him irreparable harm. Because Mr. Nelson has shown
2 serious questions going to the merits of his claims, a potential for irreparable harm, and that the
3 balance of hardships tips in his favor, the Court grants modest, temporary injunctive relief to
4 preserve the status quo: as set forth in the conclusion of this Order, Defendants are ENJOINED
5 from proceeding with the scheduled state-court hearing until both parties can be fully heard on
6 the merits of this motion.

7 Mr. Nelson further requests that this Court require that Pierce County Superior Court
8 “convene an ADA-compliant interactive process meeting”; “provide alternative filing and
9 hearing participation accommodations accounting for Petitioner’s cognitive disabilities”; and
10 “prohibit Commissioner Johnson from conducting any hearing in that matter until the court has
11 honored the required stay and provided appropriate accommodations.” *Id.* at 1–2. Because
12 Mr. Nelson has not shown imminent, irreparable harm that will result in the absence of relief,
13 these requests are DENIED pending full briefing and a hearing.

14 II. FACTUAL BACKGROUND

15 Mr. Nelson is a Washington resident. *Id.* at 2. He claims that he has cognitive disabilities
16 stemming from long COVID. *Id.* These cognitive disabilities “substantially limit brain function,
17 memory, concentration, and other major life activities.” *Id.*

18 Defendants are judges and officers of Pierce County Superior Court. *Id.* at 2–3. A state
19 civil action involving Mr. Nelson is pending before the court. *Id.* at 2. Because Mr. Nelson’s
20 claimed impairments “limit his ability to understand, remember, and respond to complex
21 information in the context of legal proceedings[.]” he submitted a request for reasonable
22 accommodation under the ADA with the court. *Id.* at 3. Mr. Nelson seeks 1) a temporary stay or
23 continuance of the June 4, 2025 dispositive motion hearing; 2) an interactive meeting with the
24 court’s ADA coordinator; and 3) “auxiliary aids or services to assist with his impairments[.]” *Id.*

1 Mr. Nelson claims that no “interactive meeting or discussion” was ever scheduled to
 2 consider possible accommodations. *Id.* at 3–4. He claims that, even after repeated inquiries in
 3 May 2025, the court failed to offer a continuance or schedule any meetings to discuss
 4 accommodations. *Id.* On June 2, 2025, Defendant Madden emailed Mr. Nelson stating that “the
 5 June 4 hearing will not be stayed” and that “the Commissioner disagrees with your ADA
 6 assessment.” *Id.* at 4 (emphasis removed).

7 Mr. Nelson argues that, if the hearing is allowed to proceed on June 4 without
 8 accommodation, he will be “effectively denied a meaningful opportunity to be heard due to his
 9 cognitive disabilities.” *Id.* He notes that the hearing is on a dispositive motion in a civil case that
 10 will affect his “property rights and legal liabilities.” *Id.* Accordingly, he asks this Court to stay
 11 the proceedings. He brings claims for relief for violation of Title II of the ADA and the
 12 Fourteenth Amendment’s Procedural Due Process requirements. *Id.* at 9–10.

13 III. LEGAL STANDARD

14 A TRO is “an extraordinary remedy that may only be awarded upon a clear showing that
 15 the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22
 16 (2008); *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)
 17 (the standard for a TRO is “substantially identical” to the standard for a preliminary injunction).
 18 TROs serve a limited purpose: “preserving the status quo and preventing irreparable harm just so
 19 long as is necessary to hold a hearing, and no longer.” *Granny Goose Foods, Inc. v. Bhd. Of*
 20 *Teamsters and Auto Truck Drivers Loc. No. 70 of Alameda Cty.*, 415 U.S. 423, 439 (1974).

21 A plaintiff seeking a TRO must show: (1) they are likely to succeed on the merits, (2) the
 22 potential for irreparable harm absent preliminary relief, (3) the balance of equities favors
 23 injunction, and (4) the relief sought is in the public interest. *Winter*, 555 U.S. at 20; *Stuhlbarg*,
 24 240 F.3d at 839 n.7. The movant must make a showing on each element of the *Winter* test. *All.*

1 *for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). But “where the ‘balance of
 2 hardships . . . tips sharply towards the plaintiff,’ a plaintiff need only show ‘serious questions
 3 going to the merits,’ rather than likelihood of success on the merits[.]” *Roman v. Wolf*, 977 F.3d
 4 935, 941 (9th Cir. 2020) (quoting *All. for the Wild Rockies*, 632 F.3d at 1135).

5 Additional requirements are imposed on TROs that are granted “ex parte,” or without
 6 notice to the other party. Under Federal Rule of Civil Procedure 65(b), a TRO may be granted
 7 without notice to the adverse party if it appears from specific facts shown by affidavit or by the
 8 verified complaint that immediate and irreparable injury, loss, or damage will result to the
 9 applicant. *Reno Air Racing Ass’n., Inc. v. McCord*, 452 F.3d 1126, 1130 (9th Cir. 2006). Shortly
 10 after Mr. Nelson filed his motion, the Court contacted him by email to ask if notice had been
 11 provided to the defendants. Dkt. 6. Mr. Nelson represented that he had provided copies of his
 12 complaint and TRO motion to all named defendants on the evening of June 2, 2025. *Id.* As of
 13 this writing on June 3, no appearance in this Court has been made on behalf of any defendant.
 14 For the limited purpose of this temporary relief, the Court accepts Mr. Nelson’s representation
 15 that the adverse parties received notice of his motion.

16 IV. DISCUSSION

17 A. Mr. Nelson has demonstrated irreparable harm and raised serious questions about 18 the merits.

19 Here, Mr. Nelson has made a showing of immediate and irreparable harm to his rights
 20 under the ADA and to his property rights in the relevant state court action if the hearing on June
 21 4 is allowed to proceed. *See* Dkt. 2 at 4. He explains that the “hearing’s subject matter (a
 22 dispositive motion in a civil case) is critically important, potentially affecting Petitioner’s
 23 property rights and legal liabilities.” *Id.* And he alleges, “[w]ithout accommodations (such as
 24 more time to process information and respond, or alternative methods of participation), there is a

1 severe risk that [Mr. Nelson] will be unable to comprehend the proceedings in real time or
2 adequately present his case.” *Id.* Although this Court has limited information on the
3 consequences of the scheduled hearing, Mr. Nelson has shown potential irreparable harm. If the
4 hearing proceeds tomorrow, June 4, without any accommodations for Mr. Nelson, he may be
5 deprived of the ability to understand legal proceedings with consequences that may not have an
6 adequate remedy at law. On the record currently before this Court, any prejudice caused by a
7 brief delay in the state-court hearing is minimal. *See id.* Thus, the Court finds, the balance of
8 hardships tilts strongly in Mr. Nelson’s favor.

9 And Mr. Nelson has shown “serious questions going to the merits” of the case. *Roman*,
10 977 F.3d at 941 (quoting *All. for the Wild Rockies*, 632 F.3d at 1135). To prove that a public
11 program or service violated Title II of the ADA, a plaintiff must show that he: (1) is a “qualified
12 individual with a disability”; (2) was “excluded from participation in or denied the benefits of a
13 public entity’s services, programs, or activities, or was otherwise discriminated against by the
14 public entity”; and (3) the “exclusion, denial of benefits, or discrimination was by reason of his
15 disability.” *Duvall v. Cnty. of Kitsap*, 260 F.3d 1124, 1135 (9th Cir. 2001), *as amended on denial*
16 *of reh’g* (Oct. 11, 2001) (quoting *Weinreich v. Los Angeles County Metro. Transp. Auth.*, 114
17 F.3d 976, 978 (9th Cir. 1997)).

18 First, Mr. Nelson has alleged that he suffers cognitive disabilities because of long
19 COVID. Dkt. 2 at 3. The Department of Health and Human Services and the Department of
20 Justice have co-issued guidance that long COVID is a disability under Titles II and III of the
21 Americans with Disabilities Act (“ADA”), Section 504 of the Rehabilitation Act of 1973
22 (“Section 504”), and Section 1557 of the Patient Protection and Affordable Care Act (“Section
23 1557”). U.S. Dep’t of Health and Human Services, Guidance on “Long COVID” as a Disability
24 Under the ADA, Section 504, and Section 1557 (July 26, 2021); *see also Muhammad v. CDCR*,

1 No. 2:23-CV-00756-JDP (PC), 2023 WL 3956713, at *1 (E.D. Cal. May 25, 2023) (assuming
2 that long COVID is a disability under the ADA).

3 Second, Title II of the ADA “include[s] an affirmative obligation for public entities to
4 make benefits, services, and programs accessible to people with disabilities.” *Updike v.*
5 *Multnomah Cnty.*, 870 F.3d 939, 949 (9th Cir. 2017). Courts are public entities required to
6 provide reasonable accommodations under Title II. *See Tennessee v. Lane*, 541 U.S. 509, 531–34
7 (2004) (“This duty to accommodate is perfectly consistent with the well-established due process
8 principle that, within the limits of practicability, a State must afford to all individuals a
9 meaningful opportunity to be heard in its courts.” (citation omitted)); *Duvall*, 260 F.3d at 1135.

10 Third, Mr. Nelson will need to show that “by reason of [his] disability, [he was] excluded
11 from participation in or [] denied the benefits of the services, programs, or activities of a public
12 entity[.]” *Weinreich*, 114 F.3d at 978 (quoting 42 U.S.C. § 12132). “The failure to provide [a]
13 reasonable accommodation can constitute discrimination.” *Updike*, 870 F.3d at 951 (citation
14 modified). “To succeed on a failure-to-accommodate claim under Title II of the ADA, a plaintiff
15 must show that a public entity failed to make reasonable modifications that would accommodate
16 plaintiff’s disability without fundamentally altering the nature of program or activity, and that the
17 accommodation would have enabled the plaintiff to meet the program’s essential eligibility
18 requirements.” *Selene v. Legislature of Idaho*, 514 F. Supp. 3d 1243, 1256 (D. Idaho 2021)
19 (citing *A.G. v. Paradise Valley Unified Sch. Dist. No. 69*, 815 F.3d 1195, 1206 (9th Cir. 2016)).

20 Additionally, Title II “create[s] a duty to gather sufficient information from the [disabled
21 individual] and qualified experts as needed to determine what accommodations are
22 necessary.” *Updike*, 870 F.3d at 954 (quoting *Duvall*, 260 F.3d at 1139). “Thus, a public entity
23 ‘must consider the particular individual’s need when conducting its investigation into what
24 accommodations are reasonable.’” *Id.* (quoting *Duvall*, 260 F.3d at 1139).

1 Mr. Nelson has raised serious questions here as to both requirements. Mr. Nelson
2 contends that he was denied any accommodations, Dkt. 2 at 4, without an interactive meeting or
3 any other assessment. *Id.* at 4, 9.

4 Accordingly, the Court finds that Mr. Nelson has shown a likelihood of irreparable harm
5 if the hearing proceeds. And Mr. Nelson has shown “serious questions going to the merits” of the
6 case. *Roman*, 977 F.3d at 941 (quoting *All. for the Wild Rockies*, 632 F.3d at 1135).

7 **B. The Court has authority to issue the TRO.**

8 With respect for principles of federalism and separation of powers, the Court notes that a
9 TRO from a federal court staying state court proceedings is rare. *See Vendo Co. v. Lektro-Vend*
10 *Corp.*, 433 U.S. 623, 630 (1977). Yet “to the extent state [] actions run afoul of federal law, they
11 can be held unlawful by federal courts.” *Selene*, 514 F. Supp. 3d at 1254 (first citing *McCulloch*
12 *v. Maryland*, 17 U.S. 316 (1819); and then citing *Ex Parte Young*, 209 U.S. 123 (1908)). And the
13 Ninth Circuit has held that suits for prospective injunctive relief under the ADA are allowed
14 under the framework of *Ex Parte Young*. *Miranda B. v. Kitzhaber*, 328 F.3d 1181, 1189 (9th Cir.
15 2003).

16 Additionally, the Anti-Injunction Act, with limited exceptions, prohibits a federal court
17 from enjoining the court or a party in a state-court proceeding from prosecuting the suit,
18 complying with, or enforcing state-court orders. *Vendo Co.*, 433 U.S. at 630; *Montana v. BNSF*
19 *Ry. Co.*, 623 F.3d 1312, 1315 (9th Cir. 2010). “Proceedings in state courts should normally be
20 allowed to continue unimpaired by intervention of the lower federal courts, with relief from
21 error, if any, through the state appellate courts and ultimately to the [Supreme] Court [of the
22 United States].” *Atl. Coast Line R.R. Co. v. Bhd. of Locomotive Eng’rs*, 398 U.S. 281, 287
23 (1970).

1 This case may fall into one of those narrow exceptions: injunctions expressly authorized
 2 by Congress. 28 U.S.C. § 2283. For example, civil rights actions under 42 U.S.C. § 1983
 3 generally fall within the first exception to the Anti-Injunction Act because “[t]he very purpose of
 4 § 1983 was to interpose the federal courts between the States and the people, . . . to protect the
 5 people from unconstitutional action under color of state law[.]” *Mitchum v. Foster*, 407 U.S. 225,
 6 242 (1972) (citation omitted); *see also Goldie’s Bookstore, Inc. v. Super. Court of State of Cal.*,
 7 739 F.2d 466, 468 (9th Cir. 1984)). However, the first exception comes into play only when a
 8 statute “clearly creating a federal right or remedy enforceable in a federal court of equity” could
 9 “be given its intended scope only by the stay of a state court proceeding.” *Mitchum*, 407 U.S. at
 10 238 (citing cases).

11 Thus, the Court’s TRO remains narrow, staying only the June 4, 2025 hearing pending
 12 further briefing and an opportunity for a hearing with all parties. In future hearings or motions
 13 practice, the parties should be prepared to address this Court’s power to enjoin pending state-
 14 court civil proceedings based on violations of the ADA. The Court emphasizes that its rulings in
 15 this temporary order are provisional and may be revised after hearing from all sides.

16 V. CONCLUSION


17 Therefore, IT IS HEREBY ORDERED that:

- 18 • Defendants are ENJOINED from proceeding with the dispositive motion hearing
 19 scheduled for June 4, 2025 in Pierce County Superior Court Case No. 25-2-
 20 01460-1. This order expires on June 17, 2025 unless extended by further order of
 21 this Court;
- 22 • Mr. Nelson’s requests for temporary injunctive relief are otherwise DENIED but
 23 may be renewed at later stages of this case;
- 24 • Mr. Nelson must provide copies of this Order to all Defendants;

- A hearing on whether this TRO should be extended will be scheduled within 14 days of this Order;
- The Court will also hold a remote status conference promptly after Defendants appear to discuss scheduling the TRO hearing and accommodating Mr. Nelson's participation in the hearing.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing pro se at said party's last known address.

Dated this 3rd day of June, 2025.



Tiffany M. Cartwright
United States District Judge